

Oregon CZARA Talking Points

01-28-15 draft

Key Messages:

- NOAA and EPA jointly disapproved the state of Oregon's Coastal Nonpoint Program, part of a national program that requires coastal states to develop a program for how to reduce nonpoint source pollution to coastal waters (pollution that comes from many sources and is caused by rainfall or snowmelt moving over the ground).
- Under a 2010 lawsuit settlement agreement with the non-profit organization Northwest Environmental Advocates (NWEA), NOAA and EPA agreed to make a final decision about the approvability of Oregon's Coastal Nonpoint Program by May 15, 2014, a deadline later extended to January 30, 2015.
- NOAA and EPA are hopeful that Oregon will achieve full program approval in the near future. The federal agencies are committed to continuing to work closely with the state to help it achieve this goal.
- NOAA and EPA recognize the complexities and challenges Oregon faces in developing a fully approvable coastal nonpoint program.
- Oregon has shown that it can remedy gaps in its program and put in place measures that are protective of water quality. For example, since NOAA and EPA's December 2013 proposed finding that the State had not addressed program requirements related to septic systems and new development, the State has addressed these gaps. NOAA and EPA are very hopeful that the State will do the same to address the gaps the agencies have identified related to forestry.
- While Oregon has made significant progress on meeting many of its coastal nonpoint program requirements, NOAA and EPA found that the state has not put in place forestry practices that are protective of water quality and designated uses, specifically with respect to riparian protection for small and medium fish bearing streams and small non-fish bearing streams; practices that reduce sediment runoff from legacy roads; practices that reduce sediment runoff from landslides; and practices that assure that herbicides are properly applied.
- The efforts the state makes to meet its CZARA requirements are also important for the recovery of coho salmon.

Background information for reaction:

- NOAA and EPA jointly administer the Coastal Nonpoint Program. The program establishes a set of management measures for states to use in controlling polluted runoff from six main sources: forestry, agriculture, urban areas, marinas, hydromodification, and wetlands and riparian areas. These measures must be backed by enforceable state policies and mechanisms to ensure their implementation.
- All coastal states and territories that participate in the National Coastal Zone Management Program are required under the Coastal Zone Management Act to develop a Coastal Nonpoint Pollution Control Program (or Coastal Nonpoint Program) that describes the programs and enforceable mechanisms they will use to implement a suite of management measures to prevent and control polluted runoff in coastal waters. The management measures states are expected to adopt are described in EPA and NOAA guidance.
- In December 2013, NOAA and EPA announced our intent in the Federal Register to find that Oregon has not submitted a fully approvable coastal nonpoint program. During the 90-day public comment period provided in the Federal Register Notice, NOAA and EPA received a number of public comments, as well as additional information from the state in support of its program. The agencies carefully considered all comments and additional information prior to making the final decision to disapprove Oregon's Coastal Nonpoint Program.
- Today's decision to disapprove the State's program is solely based on the State's need to improve its forestry practices. The federal agencies also sought public comment on the State's agricultural management measures for which the federal agencies had previously given the State an interim approval in 1998. Since then, the federal agencies have received comments from the public that raise concerns about these practices. The federal agencies have summarized the comments received but have not determined whether there are gaps in the agricultural management measures that are not protective of water quality. The federal agencies will be following up with the State about the specific concerns raised before we propose a final decision on the State's entire coastal nonpoint pollution control program.
- Under Sec. 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA), this decision provides for NOAA and EPA to withhold a portion of the funds the State receives under Section 306 of the Coastal Zone Management Act and Section 319 of the Clean Water Act. NOAA and EPA will evaluate the State's progress in addressing its remaining program gaps when deciding whether and when funding would be withheld.